

Board of Contract Appeals
General Services Administration
Washington, D.C. 20405

January 24, 2002

GSBCA 15501-RELO

In the Matter of MARINA A. GALINDO

Marina A. Galindo, Manassas, VA, Claimant.

Lt. Col. A. V. Easter, Director for Transportation Payments, Defense Finance and Accounting Service, Indianapolis, IN, appearing for Department of Defense.

WILLIAMS, Board Judge.

A relocated employee is entitled to move a maximum of 18,000 pounds of household goods (HHG) at Government expense. The employee cannot be reimbursed for the cost of shipping goods in excess of this weight.

Background

In October 1998, claimant was transferred from Belgium to Fort Belvoir, Virginia. She was authorized shipment of her HHG, at Government expense, and two Government bills of lading (GBLs) were issued. According to the certified weight tickets, 22,278 pounds were shipped under GBL YP-694,026, dated December 24, 1998, and 1585 pounds were shipped under GBL YP-694,027, dated October 21, 1998.

A re-weigh was performed on GBL YP-694,026 by a different company, Whisco, Inc., of Waldorf, Maryland, and the weight on the re-weigh was 22,296 pounds. The agency used the lower weight of 22,278 pounds to calculate the shipment weight. In addition, the agency applied a 15% packing allowance for GBL YP-694,026, decreasing the weight by 3342 pounds, and a 40% packing allowance for GBL YP-694,027, decreasing the weight by 524 pounds. After taking these deductions, the agency determined the total shipment weight was 19,722 pounds and the excess weight 1722 pounds. Since claimant was only entitled to move 18,000 pounds of HHG at Government expense and she in fact moved 19,722 pounds, the agency concluded that claimant is indebted to the Government in the amount of \$1791.26. On November 7, 2000, the agency notified claimant of the debt.

Claimant has asked that the debt be waived because she was repeatedly misinformed as to the weight of the shipment and would have remedied the problem prior to shipment if

she had known. Prior to her departure from Belgium and during the packing and loading of her HHG, claimant made numerous visits to the local transportation office for coordination and assurance that her shipment was not overweight. She was told on more than one occasion that it was within the weight allowance. Even after the carrier departed, claimant again called the transportation office about her weight allowance and asked for a final gross weight. She was told it "was OK."

Claimant used her bathroom scale to weigh many of the boxes she shipped to get a general idea of weight, and the movers also assured her the weight was fine. Claimant asked the carrier to weigh the partial shipments and was told the entire shipment would be weighed prior to leaving Belgium and that she would be given an opportunity to adjust the weight if required. Later she was told this would not be necessary because her shipment was within the weight allowance. On three occasions inspectors from the agency's transportation office visited claimant's home to view the moving process, and she asked them if her shipment was within the weight limit. They assured her "[it] was OK and if a problem came up [she] would be given an opportunity to correct it."

When claimant's unaccompanied baggage and HHG arrived at Ft. Belvoir, she again asked whether the shipment was within the weight allowance and was told it was. Had claimant known about the excess weight, she would have asked for a "witnessed re-weigh." In addition, claimant would have adjusted the weight had she suspected or been told the shipments were over the weight limit.

Claimant admits that at this point she cannot verify the shipment's weight and requests her debt be waived.

Discussion

Statute limits the Government's payment of an employee's moving expenses to 18,000 pounds net weight, and expressly provides:

Under regulations prescribed under section 5738 of this title and when the head of the agency concerned or his designee authorizes or approves, the agency shall pay from Government funds—

- (1) the travel expenses of an employee transferred in the interest of the Government from one official station or agency to another for permanent duty . . . ;
- (2) the expenses of transporting, packing, crating, temporarily storing, draying and unpacking his household goods and personal effects not in excess of 18,000 pounds net weight.

5 U.S.C. § 5724(a) (Supp. IV 1998).

The applicable regulation is to the same effect. The Joint Travel Regulations (JTR) provide that "the maximum weight of HHG that may be transported . . . in connection therewith at Government expense is limited to 18,000 pounds net weight for all employees." JTR C8000-4. Here, the employee must pay for the excess weight shipped. JTR C4353, C8002-B.1. Because the 18,000-pound weight allowance is mandated by statute, neither an

agency nor this Board has authority to waive it, even for erroneous agency or mover estimates. Terry Emerson, GSBCA 15173-RELO, 00-1 BCA ¶ 30,892; Robert K. Boggs, GSBCA 14948-RELO, 99-2 BCA ¶ 30,491; Donald G. Fullmer, GSBCA 14123-RELO, 97-2 BCA ¶ 29,291. In establishing the debt, the agency acted in accordance with the statute and the JTR, and the Board sustains the determination of the agency.¹

MARY ELLEN COSTER WILLIAMS
Board Judge

¹The agency's delay in notifying claimant of the debt does not prevent the agency from collecting the debt. Joseph W. Burns, GSBCA 14233-RELO, 98-1 BCA ¶ 29,393 (employee liable for payment of excess costs of shipping HHG when move occurred in 1991 and claimant was notified of debt in 1996).